

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UPS FREIGHT, f/k/a OVERNIGHT
TRANSPORTATION COMPANY,

Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH AND
C.C. EASTERN, INC.,

Defendants.

Civil Action No. 06-137 Erie

MEMORANDUM ORDER

This action was received by the Clerk of Court on June 19, 2006, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 27], filed on May 31, 2007, recommended that the motion to dismiss filed by Defendant C.C. Eastern [Doc. No. 19] be granted. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Plaintiff filed objections [Doc. No. 28] on June 11, 2007, and Defendant C.C. Eastern filed a Response to the objections [Doc. No. 29] on June 18, 2007. On June 26, 2007, the Court held oral argument on Plaintiff's objections. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the objections thereto, the response to the objections and oral argument, the following order is entered:

AND NOW, this 26th day of June, 2007;

IT IS HEREBY ORDERED that the motion to dismiss filed by Defendant C.C. Eastern [Doc. No. 19] is DENIED.

The Report and Recommendation [Doc. No. 27] of Magistrate Judge Baxter, filed on May 31, 2007, is not adopted as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge